IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 35959 of 1998

Between:

1. M. Gurunadham, S/o. M.V. Subbaiah,
   R/o. Cuddapah District.

2. N. Narasimha Reddy, S/o. N. Narayana Reddy
   R/o. Cuddapah District.

3. G. Subramanium S/o. G. Krishnaiah,
   R/o. Cuddapah District.

..... PETITIONERS

AND

1. Member Secretary,

Andhra Pradesh State Electricity Board,
Vidyuth Soudha, Somajiguda, Hyderabad.

2. Superintending Engineer, T.L.C. Circle,

Andhra Pradesh State Electricity Board,
Vidyuth Bhawan, Cuddapah District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court be pleased to issue a Writ of Mandamus or any other appropriate writ, direction or directions, declaring the action of the respondents in appointing persons who have put in less number of working days that the petitioners and in rejecting the claim of the petitioners for absorption under B.P.Ms.NO. 36, dt.18.5.1996, as illegal, arbitrary, unconstitutional

and to issue a consequential direction to the respondents to absorb the petitioners under B.P.Ms.No. 36, in the place of those persons who were absorbed even though they have put in less number of days than the petitioners from the date of such appointment.

Counsel for the Petitioners: MR.V.SRINIVAS

Counsel for the Respondents: V.AJAY KUMAR (SC FOR APTRANSCO)

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in appointing persons who have put in less number of working days than the petitioners and in rejecting the claim of the petitioners for absorption under B.P.Ms.No.36, dated 18.5.1996, as arbitrary, illegal and unconstitutional and consequently to direct the respondents to absorb the petitioners under B.P.Ms.No.36 in place of those who were absorbed eventhough they have put in less number of days.

2. The affidavit is as vague as it could be. It does not give any details as to who are the persons those who have put in less number of days than the petitioners were appointed and how the petitioners are more qualified and eligible than those persons, who were already appointed. In fact, the case of the petitioners was considered. However, it is asserted by the petitioners that they are fully eligible for being appointed under the said B.P.Ms.No.36 at the first instance itself, but for the initial objection raised by the respondents regarding under age of the petitioners at the time of their initial engagement under the contractor, the petitioners were not appointed. In fact, such an objection is untenable and ought not to have raised by the respondents since the Court has rejected such an objection of the Board long back, even before the said objection was raised by the petitioners herein.

3. Admittedly, the case of the petitioners was rejected while considering for absorption as per the terms and conditions of B.P.Ms.No.36, dated 18.5.1996, on the ground that they were under aged at the time of their engagement by the contractor. A similar case has come up before this court as to whether when a person was under aged and engaged by the contractor, he can be considered for absorption as per B.P.Ms.No.36, dated 18.5.1996. Ultimately, the matter was taken to the Supreme

Court and the Apex Court, in categorical terms, stated that the cases of under aged or over aged persons, cannot be considered for absorption as per B.P.Ms.No.36, dated 18.5.1995. In view of the settled position of law insofar as B.P.Ms.No.36, dated 18.5.1996, under which the petitioners are claiming employment is concerned, I am of the view that the writ petition does not merit consideration and as such is liable to be dismissed.

4. Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,J.

Date: 24th June 2005.

BSB

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Member Secretary,

Andhra Pradesh State Electricity Board,
Vidyuth Soudha, Somajiguda, Hyderabad.

2. The Superintending Engineer, T.L.C. Circle,

Andhra Pradesh State Electricity Board,
Vidyuth Bhawan, Cuddapah District.

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